

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B03

PLR-137445-14

Date:

March 18, 2015

LEGEND

X =

Trust =

A =

State =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

n =

Dear :

This letter responds to a letter dated September 24, 2014, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting a ruling under § 1362(f) of the Internal Revenue Code (the Code).

The information submitted states that X was incorporated under the laws of State on Date1, and elected to be an S corporation effective Date2. On Date2, all of the outstanding shares of X were owned by individuals, including A. On Date3, A formed Trust, a charitable remainder unitrust within the meaning of § 664(d)(2). Also on Date3, A transferred n shares of X stock to Trust. Trust, a charitable remainder unitrust, is an ineligible S corporation shareholder under § 1361(b)(1)(B). Accordingly, X's S corporation election was terminated on Date3. X and its shareholders were not aware that the transfer of X stock to Trust would terminate X's S corporation election.

X entered into an asset sale agreement with a third party on Date4. Since Date4, X has made liquidating distributions of cash to the shareholders (including Trust) with respect to their shares of stock. X represents that by Date5 it completed all of the liquidating distributions and filed Articles of Dissolution with State.

X represents that X and its shareholders have filed tax returns consistent with X being an S corporation since Date3. X further represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make adjustments consistent with the treatment of X as an S corporation as may be required by the Secretary.

Section 1362(f) provides, in part, that if (1) an election under § 1362(a) by a corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in the ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the circumstances resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation or (B) to acquire the shareholder consents, and (4) the corporation and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in the ineffectiveness or termination, the corporation will be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that the termination of X's S corporation election on Date3 was inadvertent within the meaning of § 1362(f). We further hold that, pursuant to the provisions of § 1362(f), X

will be treated as continuing to be an S corporation from Date3 and thereafter, provided that X's S corporation election was valid and provided that the election was not otherwise terminated under § 1362(d). During the termination period beginning Date3 and thereafter (until the complete liquidation and dissolution of X), A shall be treated as owning the n shares of X stock that A had transferred to Trust on Date3. Accordingly, in determining A's respective income tax liabilities during the termination period, A must include A's pro rata share of the separately and nonseparately computed items of X as provided in § 1366, make any adjustments to basis as provided in § 1367, and take into account any distributions made by X as provided in § 1368, with respect to these shares. In addition, X, A and Trust must file amended returns for all affected years, as necessary or appropriate, consistent with this treatment. If the above conditions are not met, then this letter ruling is null and void.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express or imply no opinion regarding X's eligibility to be an S corporation or the validity of its S corporation election. Furthermore, we express or imply no opinion regarding the consequences to Trust of the transactions described above under § 664.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to each of X's authorized representatives.

Sincerely,

Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes